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**UNITED STATES PATENT AND TRADEMARK OFFICE**

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY  
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE  
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DALLAS OFFICE OF FULBRIGHT & JAWORSKI L.L.P.,  
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DALLAS, TX 75201-2784

Paper No: 32  
Appeal No: 2004-0416  
Appellant: KARA, SALIM G.  
Application: 08/953,477

**Board of Patent Appeals and Interferences  
Docketing Notice**

Application 08/953,477 was received from the Technology Center at the Board on November 05, 2003 and has been assigned Appeal No: 2004-0416.

A review of the file indicates that the following documents have been filed by appellant:

Appeal Brief filed on: August 16, 2001  
Reply Brief filed on: None  
Request for Hearing filed on: None

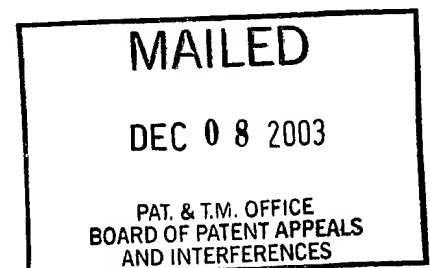
In all future communications regarding this appeal, please include both the application number and the appeal number.

The mailing address for the Board is:

**BOARD OF PATENT APPEALS AND INTERFERENCES  
UNITED STATES PATENT AND TRADEMARK OFFICE  
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The facsimile number of the Board is 703-308-7952. Because of the heightened security in the Washington D.C. area, facsimile communications are recommended. Telephone inquiries can be made by calling 703-308-9797 and should be directed to a Program and Resource Administrator.

By order of the Board of Patent Appeals and Interferences



UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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**MAILED**

**DEC 08 2003**

PAT. & T.M. OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES

Ex parte SALIM G. KARA  
and  
MARTIN J. PAGEL

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Application 08/953,477

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ORDER DENYING REQUEST FOR ORAL HEARING

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On November 7, 2001, an Examiner's Answer (Paper No. 22) was mailed. On March 12, 2002, an Information Disclosure Statement (IDS) (Paper No. 23) was filed. An Order Returning Undocketed Appeal to Examiner (Paper No. 24) (hereinafter Order 1) was mailed July 1, 2002 requesting that the IDS be considered and that appellants be notified to submit a new Appendix to the Appeal Brief filed August 16, 2001 (Paper No. 21) which included a clean copy of the claims on appeal.

On June 28, 2002, a Supplemental IDS (Paper No. 25) was filed. On August 13, 2002, a Supplemental Examiner's Answer (Paper No. 26) was mailed which corrected the deficiencies noted in Order 1. On December 18, 2002, a second Order Returning Undocketed Appeal to Examiner (Paper No. 27) (hereinafter Order 2) was mailed which requested clarification as to which version of claim 65 should be used (Supplemental Examiner's Answer, Paper No. 26, page 4, or Amendment, Paper No. 16, page 3). On November 29, 2002, a Change of Address/Power of Attorney was filed (Paper No. 28). A second Supplemental Examiner's Answer was mailed on March 11, 2003 (Paper No. 29) which included the correct version of claim 65 on page 3. Finally, a Request for Oral Hearing (Paper No. 30) was filed May 9, 2003 with a certificate of mailing under 37 CFR § 1.8 dated May 9, 2003. However, 37 CFR § 1.194(b) (2001) states:

(b) If appellant desires an oral hearing, appellant must file, in a separate paper, a written request for such hearing accompanied by the fee set forth in § 1.17(d) within two months from the date of the examiner's answer.

Since 37 CFR § 1.194(b) requires that the Request for Oral hearing be made within two months of the Examiner's Answer,

not the Supplemental Examiner's Answer, appellants' request was due on January 7, 2002.

37 CFR § 1.136 states:

(a)(1) If an applicant is required to reply within a nonstatutory or shortened statutory time period, applicant may extend the time period for reply up to the earlier of the expiration of any maximum period set by statute or five months after the time period set for reply, if a petition for an extension of time and the fee set in § 1.17(a) are filed, unless:

. . . . .

(iii) The reply is a request for an oral hearing submitted pursuant to § 1.194(b);

. . . . .

(b) When a reply cannot be filed within the time period set for such reply and the provisions of paragraph (a) of this section are not available, the period for reply will be extended only for sufficient cause and for a reasonable time specified. Any request for an extension under this paragraph must be filed on or before the day on which such reply is due, but the mere filing of such a request will not affect any extension under this paragraph.

Since the provisions of 37 CFR § 1.136(a)(1)(iii) were not available for a request for oral hearing and appellants failed to petition under the provisions of 37 CFR § 1.136(b), the request for oral hearing is not timely filed.

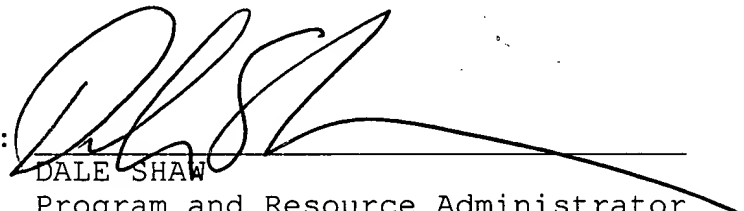
Application 08/953,477

Accordingly, it is

ORDERED that the Request for Oral Hearing is denied as being not timely filed. An appeal number will be issued and the case will be assigned in due course to a merits panel for consideration and decision on the written record.

BOARD OF PATENT APPEALS  
AND INTERFERENCES

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